



**STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
POLICY DIRECTIVE**

Policy No. DOC 1.3.20	Subject: NONDISCRIMINATION AND SEXUAL HARASSMENT
Chapter 1: Administration and Management	Page 1 of 4 and Attachments
Section 3: Human Resource Bureau	Effective Date: July 1, 1996
Signature: /s/ Mike Ferriter, Director	Revised: 06/11/97; 08/07/97; 12/15/08

I. POLICY

The Department of Corrections is an equal employment opportunity employer and provider of correctional services. The Department does not tolerate discrimination in employment or in provision of services based on race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, or political beliefs. Neither does the Department tolerate sexual or other harassment. The Department is committed to resolving discrimination and harassment complaints in a fair and timely manner.

II. APPLICABILITY

All Department divisions, facilities, and programs.

III. DEFINITIONS

Discrimination – Statements, decisions, or acts based on race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, or political beliefs.

Equal Employment Opportunity (EEO) – Hiring, firing, promotions, compensation, job assignments, and conditions or privileges of employment are nondiscriminatory unless based on a bona fide occupational qualification (BFOQ).

Human Resource Bureau (HR) – Located at the Department's central office and includes all Department employees in positions classified as Human Resource Manager, Human Resource Specialist, and Human Resource Assistant.

Sexual Harassment – In accordance with 3-0630, *Montana Operations Manual (MOM)*, sexual harassment is defined as:

1. Unwelcome verbal or physical conduct of a sexual nature when:
 - (a) submission to the conduct is implicitly or explicitly made a term or condition of employment or receipt of usual and customary services or privileges from a client perspective;
 - (b) submission to or rejection of the conduct is used as the basis for an employment or service/privilege decision affecting the individual; or
 - (c) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working or living environment.
2. Sexual harassment also includes harassment directed toward a person because of gender, a pattern of sexual favoritism, or harassment because of a person's sexual orientation.

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Other Harassment – Harassment of employees, clients, customers, and any other persons because of a person’s race, color, national origin, age, physical or mental disability, marital status, religion, creed, sexual orientation or political beliefs. *It is the State of Montana policy to provide employees, clients, customers, and any other persons with a work environment free of these forms of harassment.*

IV. DEPARTMENT DIRECTIVES

A. Human Resource Staff Assignments and Responsibilities

1. A member of the Human Resource Bureau staff with relevant training and expertise will be assigned as the Department ADA coordinator and will assist all facilities and programs with ADA compliance.
2. A member of the Human Resource Bureau staff with relevant training and expertise will be assigned as the Department EEO officer and will assist all facilities and programs with EEO and anti-discrimination statutory compliance.
3. Individual facilities may be assigned a facility ADA coordinator and/or EEO officer who will work with the Department designee for that particular function.
4. The Department or facility EEO officers or ADA coordinators will confer with the HR Bureau chief, or designee, regarding any allegations of illegal discrimination or harassment, or any other violation of state or federal anti-discrimination laws. They will commence investigations regarding the circumstances and sufficiency of the discrimination or harassment complaint no later than 10 working days after receiving notice of those allegations. The HR Bureau chief will initiate a disciplinary investigation, if warranted, in accordance with *DOC Policy 1.3.13, Staff Misconduct Investigations*.
5. Upon receipt of the investigator’s factual report, the Department will disclose, in writing, the results of the investigation to the complainant, any employees directly involved in the case including their immediate supervisors, and the EEO officer or ADA coordinator. The specifics of any disciplinary action taken against any Department employee will not be included in the report unless the Department’s Legal Services Bureau specifically advises to do so.

B. Administrative and Employee Responsibilities

1. The Department adopts and incorporates by reference the complaint resolution procedure set forth by 3-0630, *Montana Operations Manual (MOM)*.
2. Department facilities will prominently display the Department’s [Nondiscrimination Statement and Complaint-Form Poster](#) where it can be observed by staff, clients, offenders, and members of the public. The Department’s [Discrimination Complaint Form](#) must be available and provided on request. Persons who wish to file a request should be encouraged but are not required to file a written complaint on the designated form. Verbal complaints must be accepted and passed to the appropriate Department official referenced below.

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3. Any administrator or supervisor who receives a complaint or becomes aware of discrimination or harassment, will relay the complaint to a Human Resource Bureau staff member, an ADA coordinator, EEO officer, or the HR Bureau chief within 48 hours whenever possible.
4. Any employee who believes another person has been subjected to discrimination under the Department nondiscrimination policy, including EEO, ADA, and sexual harassment, must report the incident(s) or action(s) to an administrator or HR staff member as soon as possible after the alleged discrimination occurs.
5. All administrators, supervisors, and staff will make every reasonable effort to ensure that offenders, clients, and the public are not subject to discrimination or harassment in Department facilities or within the context of the delivery of Department services or programs.
6. Upon receipt of a report alleging discrimination, including sexual harassment, the Department will take all appropriate steps to prevent the alleged conduct from continuing pending completion of the investigation. The Department will determine the steps to be taken by balancing the rights of the alleged victim, including the severity of the alleged conduct, and the rights of the alleged harasser.
7. Neither Department administrators nor any employee will retaliate against any employee, customer, offender, or member of the public for filing a discrimination complaint or for participating in any way in the discrimination or harassment complaint procedure.

C. Additional Action

1. Nothing in this policy prohibits an employee, client, or member of the public from concurrently filing a complaint of unlawful discrimination with the Montana Human Rights Bureau. The complaint must be filed either:
 - a. within 180 days of the alleged incident; or
 - b. if the employee initiates action to resolve the alleged discrimination in accordance with this procedure or contract grievance procedure, within 300 days of the alleged incident.

V. CLOSING

Provisions of this policy not required by statute will be followed unless the provisions conflict with negotiated labor contracts, which will take precedence to the extent possible.

Questions concerning this policy should be directed to the EEO officer or ADA coordinator.

VI. REFERENCES

- A. 3-0630, *Montana Operations Manual (MOM), Non-Discrimination – EEO (Admin.R. Mont § 2.21.4001-4014)*
- B. *Human Rights Commission Rules, Title 24, ch. 9, subch. 6 Proof of Unlawful Discrimination*
- C. *Gov. Exec. Order 24-81 Establishing State's EEO Program*
- D. *Gov. Exec. Order 7-82 Prohibiting Sexual Harassment*

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E. DOC Policy 1.3.13, Staff Misconduct Investigations

VII. ATTACHMENTS

Related Forms:

[Discrimination Complaint Form](#)

[Nondiscrimination Statement and Complaint Form Poster](#)